

Exhibit H



U.S. Department of Justice

United States Attorney
Southern District of New York

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

March 23, 2018

By Email

Edward Y. Kim, Esq.
Paul M. Krieger, Esq.
Jonathan F. Bolz, Esq.
Krieger Kim & Lewin LLP

Andrew J. Levander, Esq.
Benjamin E. Rosenberg, Esq.
Katherine Wyman, Esq.
Dechert LLP

Re: *United States v. Chi Ping Patrick Ho*, 17 Cr. 779 (KBF)

Dear Counsel:

We write in response to your letter, dated March 9, 2018, in which you address two points from our March 2, 2018 letter and seek additional information. We respond to each point in turn.

1. We have listed the pertinent domestic concerns that we have identified to date. As we have said, the investigation is ongoing. To the extent that we identify additional such domestic concerns, we will notify you.

2. We disagree that the information provided to date, including in the 54-page complaint and extensive discovery, is insufficient to enable you to adequately prepare a defense. Nor are we aware of any cases in which the Government has identified—much less eight months before trial—“all acts” constituting the use of the mails/interstate commerce, or constituting the bases for a finding of venue. If you have any authority for your request, we would be happy to consider it.

3. We do not agree that you are entitled to much or all of the information you seek, and particularly not with respect to accounts that were not used by your client. Notwithstanding that that is so, as a courtesy, we are providing you with the following information regarding the accounts that we understand were used by your client:¹

¹ We are providing this information without prejudice to taking the position that, in order to establish standing to move to suppress any of the warrants at issue, your client need submit an affidavit regarding his use of the accounts.

March 23, 2018

Page 2

secgen@chinaenergyfund.org: We received search warrant returns for this account from Google on or about the following dates: June 20, 2016, August 18, 2016, November 9, 2016, and March 3, 2017.

head@chinaenergyfund.org: We received search warrant returns for this account from Google on or about the following dates: November 8, 2016 and March 3, 2017.

cpho@chinaenergyfund.org: We received search warrant returns for this account from Google on or about the following dates: November 8, 2016 and February 28, 2017.

hocppatrick@gmail.com: We received search warrant returns for this account from Google on or about the following dates: November 8, 2016 and March 6, 2017.

kimosabehk@yahoo.com.uk: We received search warrant returns for this account from Yahoo on or about March 25, 2017.

In each of the above instances, a member of the prosecution team began reviewing the returns within approximately two weeks of our receipt of them.

As you know, given the volume of the data obtained pursuant to the search warrants for the above email accounts (and those of others involved in this matter) and the fact that many of these emails were not in English, the Government subsequently retained a third-party vendor to support the Government in the review of these emails and the process of sorting these returns into emails that are “identified” as responsive to the relevant warrant(s) and those that are “not identified” as responsive to the relevant warrant(s). On or about March 23, 2018, we instructed our third party vendor to upload the “identified” emails relating to the foreign bribery charges to be processed and made available to you in discovery.² We do not agree that you are entitled to

² A small subset of the emails marked “identified” were flagged as potentially privileged, and will be reviewed by a wall team.

In addition, based on our review to date, it appears that certain providers either over- or under-produced certain emails required by the relevant warrant(s). With respect to overproduction, in at least one instance, Google produced emails for the secgen@chinaenergyfund.org account that fell outside the date range described in the relevant warrant(s). In another instance, it appears that GoDaddy produced emails from accounts associated with the domain @sarata-holding.com other than the sole such account specified in the relevant search warrant (boubker.gadio@sarata-holding.com). We have segregated the apparently overproduced emails from the set of properly produced emails and have not marked them as “identified.”

With respect to underproduction, in at least two instances, one involving the secgen@chinaenergyfund.org account and one involving the ctgadio@yahoo.com account, the relevant providers appear to have not produced certain emails from the date ranges called for in the relevant warrant(s). We are working through this issue with these providers, and will notify you if we receive additional emails, which will then be reviewed in the same manner discussed herein.

March 23, 2018

Page 3

disclosure of “the procedures used” in identifying these materials, when you will be provided with the identified materials themselves and have or will have the warrants and affidavits in support.

In response to your question about *Brady* and *Giglio* information, the Government understands its obligations and intends to continue to comply with its obligations. The various warrants authorize us to review the returns for information responsive to the terms of the warrants. To the extent any information identified as responsive may constitute *Brady* or *Giglio* information, you will receive that together with the entirety of the information identified as responsive under the warrants. We note that, as to the accounts used by your client, we have already provided you with the entire contents of those accounts.

4. As you know, the Federal Bureau of Investigation (“FBI”) used your client’s iPad password to unlock the iPad, put it in airplane mode, and shut it off. *See* USAO_HO_00012. Although we do not believe that you are entitled to the information, in response to your request, we understand that the FBI’s Computer Analysis and Response Team subsequently used that password to more efficiently access your client’s Huawei cellular phone during the execution of the search warrant for that phone, the result of which has been provided to you.

Please let us know if you have any questions or would like to discuss the foregoing.

Very truly yours,

GEOFFREY S. BERMAN
United States Attorney

By: s/ Daniel C. Richenthal
Daniel C. Richenthal
Douglas S. Zolkind
Thomas McKay
Assistant United States Attorneys
(212) 637-2109/2418/2268

SANDRA MOSER
Acting Chief, Fraud Section
Criminal Division

By: s/ Paul A. Hayden
David A. Last
Paul A. Hayden
Trial Attorneys
(202) 616-5651/353-9370